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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,377	10/07/2003	Peng Lee	026018.46631	5920
28172	7590	08/29/2006	EXAMINER	
BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC 6075 POPLAR AVENUE SUITE 500 MEMPHIS, TN 38119			PHAM, TOAN NGOC	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A

<b>Office Action Summary</b>	<b>Application No.</b> 10/680,377	<b>Applicant(s)</b> LEE, PENG	
	<b>Examiner</b> Toan N. Pham	<b>Art Unit</b> 2612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 20-25, 33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19 and 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Litzkow et al. (US 4,671,114).

Regarding claim 14: Litzkow et al. disclose an acoustic insect detection comprising detection member having a proximal and distal end, said proximal end contacting a diaphragm (1) and said distal end be configured to be inserted into a potential infestation site without damaging the structure; a means to mechanically amplify the sound produced by said diaphragm; and a means to receive airborne sound and to convert said sound to an electrical signal (col. 2, lines 7-26).

Regarding claim 17: Litzkow et al. disclose the means to mechanically amplify the sound is a stethoscope (col. 2, line 58).

Regarding claim 18: Litzkow et al. disclose the means to receive airborne sound and to convert said sound to an electrical signal is a microphone (5)(col. 2, line 22).

Claims 26-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Vick et al. (US 5,005,416).

Art Unit: 2612

Regarding claim 26: Vick et al. disclose an insect detection system comprising an acoustic detector for detecting termites in a structure and transmitting data collected by the sensors to a central operations center (53) for inclusion in a central database of termite data and information (col. 8, lines 37-63).

Regarding claim 27: Vick et al. disclose affixing the sensor to a structure, communication the signal to a computing device (53) for comparing/processing of insect infestation (col. 8, lines 37-63).

Regarding claim 29: Vick et al. disclose the computing device is a computer (53) at a remote site is inherently a remote central processor.

Regarding claim 30: Vick et al. disclose the hand held device (60) (Fig. 10).

Regarding claim 31: Vick et al. disclose detection of infesting insects (abstract); thus, infesting insects are termites.

Regarding claim 32: Vick et al. disclose the control signal stored in the computing device is modified to include the detected signals (Fig. 7; col. 7, lines 30-50).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2612

Claims 15, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Litzkow et al. (US 4,671,114).

Regarding claims 15, 16 and 19: Litzkow et al. does not disclose the detection member is a probe or a hypodermic needle; however, one of ordinary skill in the art would recognize that it is obvious to disclose the sound detector in other forms, besides the microphone or a stethoscope, to detect sound.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vick et al. (US 5,005,416). Vick et al. does not disclose the vibration signals are between 0-.5 and three milliseconds in length; however, it is merely that the length of time varies with different systems and an obvious preference signal to indicate a level of insect infestations.

### ***Response to Amendment***

Applicant's arguments with respect to claims 14-19 and 26-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N. Pham whose telephone number is (571) 272-2967. The examiner can normally be reached on M-F.

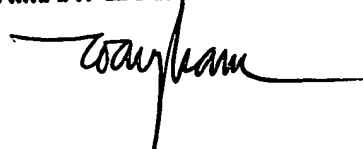
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 22, 2006

**TOAN N. PHAM**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Toan Pham', written over a horizontal line.